

**BRIGHAM CITY PLANNING COMMISSION MEETING
TUESDAY, JANUARY 06, 2009 – 6:30 PM
BRIGHAM CITY COUNCIL CHAMBERS**

PRESENT:	Joan Peterson	Chairperson
	Barbara Poelman	Vice Chairperson
	Lynda Berry	Commissioner
	Deon Dunn	Commissioner
	Paul Fowler	Commissioner
	Roger Handy	Commissioner
	Larry Jensen	Alternate Commissioner
	Eve Jones	Alternate Commissioner

ALSO PRESENT:	Ruth Jensen	City Council Liaison
	Paul Larsen	Economic Development Director
	Mark Bradley	City Planner
	Eliza McGaha	Secretary

EXCUSED:	Reese Nielsen	Commissioner
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AGENDA:

WORK SESSION – AGENDA REVIEW

REGULAR MEETING

PLEDGE OF ALLEGIANCE

APPROVAL OF WORK SESSION MINUTES AND REGULAR MEETING MINUTES

PUBLIC COMMENT (*Per Utah Code, will receive input only, no decision can be made*) for items not listed on the agenda.

CONTINUATION OF APPLICATION #3029 / PRELIMINARY PLAT - KIRK NELSEN 1 LOT SUBDIVISION / 925 WEST 1075 SOUTH (GEORGIA DRIVE) / KIRK NELSEN

CONTINUATION OF APPLICATION #3084 / UPLAND SQUARE DEVELOPMENT AGREEMENT / BRIGHAM CITY CORPORATION

CONTINUATION OF APPLICATION #3085 / UPDATE AND REWRITE OF CHAPTER 29.13 COMMERCIAL DISTRICTS

DISCUSSION:

REGULAR MEETING:

Joan Peterson opened the regular meeting at 6:30 p.m. Barbara Poelman led the Pledge of Allegiance.

Ms. Peterson opened the floor for nominations for Chairman for 2009.

MOTION: A motion was made by Roger Handy to extend the term of the current Chairman for another year. The motion was seconded by Barbara Poelman and passed unanimously.

APPROVAL OF WORK SESSION MINUTES AND REGULAR MEETING MINUTES:

MOTION: A motion was made by Roger Handy to approve the December 16, 2008 work session minutes. The motion was seconded by Barbara Poelman and passed unanimously.

PUBLIC COMMENT (*Per Utah Code, will receive input only, no decision can be made*):

There was no public comment.

CONTINUATION OF APPLICATION #3029 / PRELIMINARY PLAT - KIRK NELSEN 1 LOT SUBDIVISION / 925 WEST 1075 SOUTH (GEORGIA DRIVE) / KIRK NELSEN:

The applicant requested to continue this application to a future meeting so he and his partners can discuss their options which are:

1. To proceed with plat approval and install improvements.
2. To proceed with plat approval and post bond for improvements, allowing up to a 2-year time frame.
3. Request a special exception to delay installation up to 1-year before the year expires and they can proceed with final plat approval.
4. Delay subdividing the land until the applicant is ready to install the improvements.

MOTION: A motion was made by Barbara Poelman to continue application #3029 to a future date. The motion was seconded by Lynda Berry and passed unanimously.

CONTINUATION OF APPLICATION #3084 / UPLAND SQUARE DEVELOPMENT AGREEMENT / BRIGHAM CITY CORPORATION:

Paul Larsen, Economic Development Director, came forward. Ms. Peterson asked him to address their concerns about fast-food restaurants and reducing the height of buildings. Mr. Larsen stated that a development agreement is a contract between the City and the developer and vesting in the current zoning on the property is done at the time of submitting a complete application for development approval. Currently, all the commercially zoned areas in the City will allow 7-stories and up to 75-feet for buildings, which can be amended if the Planning Commission so chooses and then forwarded to the City Council but to change that just for this development would probably be arbitrary and capricious. If the applicant voluntarily agreed to a story reduction request it could be put into the agreement. The Planning Commission can discuss and determine if they would like to change that and Mr. Larsen recommended they spend some time researching the issue, look to the future, and consider all the reasons for doing it including looking at what other communities do, what they are trying to accomplish with that restriction, and if there are unintended consequences with it.

Mr. Larsen shared with the Commission some zoning history regarding the height of buildings. He said that the City had been erroneously accused of causing Flying J to leave Brigham City and there are three versions as to why they left which are that the City would not allow a 3-story, 4-story, or 5-story building; none of which are true; they were presented with various options which they declined. At that time, the zoning allowed 3-stories and research of the Planning Commission minutes would have to be done in order to determine the reasons for the increase. Brigham City does have fire service capability for 7-stories. When certain levels are exceeded in a building the fire starts to be fought by the buildings internal fire sprinkling system, as required by the Building Code, and then fought by fire fighters going

into the building in the way they are trained to do. Mr. Larsen stated that when the ordinance was amended to allow 7-stories the EMS Department was involved and they had no issue with it. He said the City is prepared to handle that type of thing from an emergency standpoint. Mr. Larsen commented that he thought it is more of an esthetic consideration than it is a building safety issue. As far as the overall development, with space and needs, it is unlikely something that high will be seen. Mr. Larsen said a 7-story building in this community would be very unusual and doubted that the market at this time would fund that type of structure. He commented that design is a bigger issue to him than density.

Mr. Morris, Upland Square Development representative, stated they would only construct a building that high if the market would bear it and it would be a quality building based on the design guidelines that are in place; they would only do it if it made sense and if it was aesthetically pleasing to the whole development. There is a lot of acreage there and they will not do something that would jeopardize a building like that or the other users that would come into the site; it would have to fit together and cannot be an eyesore or something that would stand out. If it functioned with everything else that was going on then they would do it.

It was clarified that the threshold acreage for development agreements was set at 40-acres as to not set a precedent of doing development agreements on every small development that may come through.

In reference to definitions, a check cashing business entails writing a post-dated check with an added interest rate in exchange for immediate cash and a payday loan business entails endorsing a paycheck over to the business. Both are defined and classified as nondepository institutions which are not allowed in the development. Price point retail establishment is the definition given to dollar stores.

On page 17 of 21, in reference to the square footage requirements for residential open space/recreation areas, Ms. Poelman suggested adding the word 'additional' to go with the description of 200 square feet so it reads 200 additional square feet.

On page 19, Ms. Peterson pointed out that the Community Development Manager Department needed to have either the word Manager or Department dropped for it to read more clearly. It was determined that the word Manager would be dropped.

Ms. Dunn suggested listing specific examples of fast-food restaurants, including ones they do not want to duplicate, to the definition of fast-food such as Burger King, McDonald's, Taco Bell, and Arby's. Mr. Morris stated that the fast-food definition is a strong one and they could add that list of examples in the definition as they are fine with doing that. Ms. Jones said she thought that on page 11 of 21 the wording for the criteria defining fast-food versus a full-service restaurant was not concise enough, leaving a loophole for the possibility of a fast-food restaurant to come in. She said it gives the option to define a full-service restaurant but not the option to define as fast-food and she was concerned that a restaurant that is known to be a fast-food would be able to come in because it does not meet the four requirements in the definition. Mr. Morris commented that all the examples they came up with are probably not fast-food but they meet the four definitions and no one has been able to come up with a fast-food that does not meet those definitions; he stated that he was comfortable with it the way it is and said Staff did a great job in defining it. Mr. Morris suggested leaving the definition strong and allow the City Staff, in each particular case, to determine if a restaurant is or is not fast-food.

A drive-up window is not listed as a characteristic for fast-food because there are many full-service restaurants that have a take-out window. Mr. Jensen asked if the City was at risk for any legal action by offering an exemption. Mr. Handy responded that legal action is always a possibility but the decision of Staff needs to be well planned and defensible. Mr. Larsen commented that this is a contract between the developer and the City where the developer agrees to subject himself to the terms of the agreement. He said he liked the fast-food provision and it is as objective as it can be. Most restaurants will be able to look at it and determine what category they fit into; the ambiance and method of food

preparation must be such as to not be thought of as typical fast-food. Mr. Morris commented that he thought it would be defensible as this is a contractual relationship and they have voluntarily agreed to that provision.

Mr. Handy suggested removing 'golf course' under the listed public and quasi public uses. Mr. Morris agreed to that change.

Mr. Bradley asked Mr. Morris to think about a voluntary consideration for a 5-story compared to a 7-story building. He also asked how they wanted to address Ms. Dunn's comments regarding the examples of fast-food. Mr. Morris suggested, on page 11 of 21, paragraph five, after the H listing and before the exception paragraph, that they add a sentence stating *examples of fast-food restaurants include but are not limited to Burger King, McDonald's, Taco Bell, and Arby's*.

In regards to the 7-story building height, Mr. Handy commented that unless the applicant voluntarily agrees to go to a 5-story maximum he would not want the Planning Commission to require that since 7-stories is the current zoning throughout the city. Mr. Morris said, for that reason, they would like to resist doing that because if they have the market for it they could, under the design guidelines, make a quality building. He said there are locations that have that height of building that look very nice and are located in suburban communities that are high quality mixed uses such as in South Jordan and Murray.

MOTION: A motion was made by Roger Handy to recommend to the City Council the approval of application #3084 which is a development agreement between Upland Square and Brigham City as amended this evening with the findings of fact that the agreement will not under the circumstances of the particular case be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity or injurious to property or improvements in the vicinity and that the Utah Municipal Code allows the City to enter into development agreements and considers necessary or appropriate for the use and development of land within the municipality to govern uses, density, open spaces, structures, etc; the Brigham City Code Section 25.01.03 and 29.01.050 authorize the City to enter into a development agreement and that said development agreement is consistent with the General Plan. The motion was seconded by Deon Dunn.

Discussion: Ms. Poelman asked why Brigham City is called 'the City' in the agreement. She said Perry's said Perry City and she asked why Brigham's did not say Brigham City. Mr. Morris explained that Perry's agreement says 'the City' after the first mention also. In the very first use it is stated completely and then simply stated as 'the City' thereafter.

The motion passed unanimously.

The Commission took a five minute break.

CONTINUATION OF APPLICATION #3085 / UPDATE AND REWRITE OF CHAPTER 29.13 COMMERCIAL DISTRICTS:

Mr. Bradley commented that as updates are made to this chapter they could create an extensive and very specific list of uses, create a general term with an explanatory definition, or a combination of both. Mr. Bradley read through the changes with the Commissioners.

In regards to dwellings and the concern of allowing residential developments in the commercial zone, Mr. Bradley suggested strictly having multifamily housing but allow for housing to be integrated with

commercial buildings which would require conditional use and allow the Planning Commission to get involved with the design of the buildings. If multilevel buildings are allowed, the main level would be retail or restaurants, the second level would be office space and the third level would be residential. For the old Main Street style, the design could be retail with residential above or apartments in the back; the Commission would also have to approve conditional use for this type of design.

In regards to homeless shelters, Mr. Bradley said that was carried forward as in the previous draft and is something that the Planning Commission will need to consider. He commented that they need to look at all the types of housing the City provides. Boarding houses and homeless shelters are uses that are not mandated for cities to provide. It needs to be considered if homeless shelters are something that we want to allow and what kind of impact they may have. Mr. Bradley stated he did not think it would reflect negatively on Brigham City if they were not allowed because there are other types of uses allowed such as transitional housing. Mr. Handy commented that he was not trying to lobby for homeless shelters in commercial zones but he did not think they were allowed anywhere else in the City.

Mr. Bradley replied that homeless shelters are currently a conditional use in the General Commercial (GC) and are not permitted in the Central Business District (CBD). Those types of facilities are often by main transportation routes. Mr. Bradley commented that there are larger communities than a city the size of Brigham that can provide other services to those individuals in addition to the housing including food services, potential jobs, and other type of services. Mr. Handy said if homeless shelters are taken out of the commercial zone, they should be put somewhere else in the city. He suggested Staff consider an alternate place to put homeless shelters and give the Planning Commission some feedback on it. It was discussed if there was acreage available down in the 1000 West area by the County Jail which is in the Manufacturing District (MD) zone. There is also the West Forest Overlay district to consider as far as design and uses. A lot of undesired uses that are mandated for cities to have are often pushed into the industrial zones. Mr. Bradley stated that he talked to David Church, who is the attorney that represents that Utah League of Cities and Towns, as to why some cities, such as Sandy, do not allow for homeless shelters, prisons, or boarding houses and are not required to. It was thought that they should be allowed somewhere.

Mr. Handy suggested keeping homeless shelters in the commercial zone as a conditional use. Mr. Bradley cautioned that a homeless shelter would basically be a permitted use which would need reasonable conditions placed on it to mitigate the impact it may have in the particular area it is allowed. Mr. Jensen recommended that Staff do some research to find the most suitable zoning location for a homeless shelter within the city. Mr. Bradley said there was a specific reference made about Brigham City by one of the communities in regards to not allowing homeless shelters because they said Brigham City allows for everything to happen and they send everything our way. Mr. Bradley said that was a concern and suggested finding a way to allow a homeless shelter in a way that will be beneficial and helpful but also provide a way to protect the citizens. Standard conditions could be listed for a conditional use permit approval which could be included in the conditional use permit chapter. Specific criteria could already be established for boarding houses and homeless shelters and if they meet those criteria the Planning Commission could grant a conditional use.

In regards to building material/hardware sales enclosed, it was listed as non-conditional because the central business district is a relatively smaller area where more office/retail shops are wanted instead of allowing larger areas for outside storage. Mr. Bradley said the goal was to identify uses that really do not belong in the central business district and put them into the GC.

Ms. Berry asked for an explanation of heritage related businesses. Mr. Bradley said he would interpret it to be something that pertained to Brigham City's heritage. It was decided that this section should be looked at and redefined as to not be redundant; it also needs to be determined where the language came from.

Mr. Bradley suggested they may want to get rid of the general specialty retail stores in the central business district and just have the individual stores listed such as interior decorating, hobby and craft shops, jewelry stores, and so forth as he thought the generalization was not specific enough. Ms. Poelman suggested including examples and other ideas for those things that may fit but are not listed.

The price-point retail definition does not allow price-point retailers within one-mile of another price-point retailer inside or outside of the City jurisdiction boundaries. There is a distance requirement as well as a restriction based on the amount of residents in the city. The non-depository institution definition regulates how many are allowed. Mr. Handy asked why non-depository institutions were allowed and not pawn shops. The same language will be added for pawn shops as the non-depository institutions.

The human services definition could range from adoption facilities to psychologists and Mr. Bradley said that was an example of a definition including all types of uses and said he could not recall why they were listed as a non-permitted use. Mr. Handy commented that he could see those types of uses in the CBD. Ms. Dunn asked if there had been any discussion of expanding the CBD. Mr. Bradley replied that he had not heard of any plans for expansion but it could be considered. It was suggested allowing small equipment rental in the GC. Mr. Bradley said they are working with UTA on a park and ride and they are looking at some adjustments on their routes but are trying to maintain their key routes on Main Street. A bus terminal is a conditional use in the GC and CBD.

Mr. Bradley asked the Commissioners to let him know about any types of uses they would like to have included. If the Commission would like to recommend to the City Council a reduction in the height of buildings from 7-stories to 5-stories in the GC, Mr. Bradley said they could work on that. It was suggested buildings of that height could be located on West Forest or other designated areas of the city and the height allowed in each of those areas designated as well. Varying comments were made about how it would look to have a 7-story building in the downtown area; some were not in favor of it due to aesthetic reasons and others were in favor due to the possible boost to the economy of the downtown businesses.

In regards to allowing a daycare in the CBD, there were comments related to not allowing them in that area; however, Mr. Bradley pointed out that some businesses have daycares in them or next to them for their employees with children.

MOTION: A motion was made by Barbara Poelman to continue application #3085 until the next Planning Commission meeting on January 20, 2009. The motion was seconded by Deon Dunn and passed unanimously.

DISCUSSION:

There was discussion on how nice the facelift to the strip mall on 700 South Main Street had turned out. Mr. Bradley handed out a letter to the Commissioners from a citizen regarding the Skyline Drive commercial shopping mall area. This citizen expressed his concern about the raised median installed by UDOT. When the mini mall went in there was discussion regarding UDOT not putting in a median to assist with the access out of that area. The City and the developer felt that UDOT supported that decision. When UDOT came through with their scoping project for the improvements on Highway 89, Staff spoke with them on behalf of not having a raised median but UDOT went ahead and put that in their plan which is out of the City's control as it is a State highway. There is not much the City can do in regards to the letter other than pass it on to the Planning Commissioners for their information.

MOTION: A motion was made by Lynda Berry to adjourn. The motion was seconded by Deon Dunn and passed unanimously.

The meeting adjourned at 8:11 p.m.

*This certifies that the regular meeting minutes of January 06, 2009 are a true and accurate copy
as approved by the Planning Commission on January 20, 2009.*

Signed: _____

Jeffery R. Leishman, Secretary